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8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-370*

12 **TINA SMITH, a.k.a. TINA M. SMITH,**  
13 **a.k.a. TINA MARIE SMITH, a.k.a. TINA**  
14 **SCHUTTE**  
13618 Road 270  
Oregon House, CA 95962  
15 Registered Nurse License No. 582178

**A C C U S A T I O N**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about June 19, 2001, the Board of Registered Nursing issued Registered Nurse  
24 License Number 582178 to Tina Smith, also known as Tina M. Smith, also known as Tina Marie  
25 Smith, also known as Tina Schutte (Respondent). The Registered Nurse License was in full force  
26 and effect at all times relevant to the charges brought in this Accusation and will expire on March  
27 31, 2011, unless renewed.  
28

## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY/REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional

1 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that  
2 action.

3 ...

4 (b) Procuring his or her license by fraud, misrepresentation, or mistake.

5 ...

6 (e) Making or giving any false statement or information in connection with the application  
7 for certificate or license."

#### 8 DRUGS

9 8. "Lortab" is a compound containing Hydrocodone, and is a Schedule III controlled  
10 substance as designated by California Health and Safety Code section 11056, subdivision (e)(4),  
11 and a dangerous drug within the meaning of Code section 4022.

#### 12 COST RECOVERY

13 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

#### 17 FIRST CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct – August 1, 2007, Agreed Order)  
(Bus. & Prof. Code §2761(a)(4))

19 10. Respondent has subjected her registered nurse license to disciplinary action under  
20 Code section 2761(a)(4) in that on or about August 1, 2007, in a disciplinary action before The  
21 Board of Nurse Examiners for the State of Texas (Texas Board), the Texas Board entered an  
22 Agreed Order with Respondent, sanctioning her with remedial education. The Agreed Order  
23 required Respondent to: (1) deliver her wallet sized licenses to the Texas Board within ten days of  
24 the ratification of the Agreed Order for appropriate notation; (2) within one year of entry of the  
25 Agreed Order, successfully complete a Texas Board-approved course in nursing jurisprudence  
26 and ethics for a minimum of six contact hours; (3) within one year of entry of the Agreed Order,  
27 successfully complete a Texas Board-approved course in medication administration with a  
28

1 minimum six-hour didactic portion and a minimum 24-hour clinical component; (4) within one  
2 year of entry of the Agreed Order, successfully complete a Texas Board-approved course in  
3 nursing documentation for a minimum of six hours; and (5) while encumbered by the Agreed  
4 Order, not work outside of the State of Texas pursuant to a multistate licensure privilege without  
5 the written permission of the State of Texas and the party state where Respondent wishes to work.

6 11. The underlying conduct supporting the Texas Board's disciplinary action is that on or  
7 about August 25, 2005, while employed at Presbyterian Hospital of Dallas in Dallas, Texas, at  
8 approximately 4:00 a.m. Respondent failed to document the withdrawal, wastage, and witness of  
9 wastage of Lortab Elixir from the Pyxis Medication Dispensing System.

10 SECOND CAUSE FOR DISCIPLINE  
11 (Unprofessional Conduct – January 27, 2010, Order)  
12 (Bus. & Prof. Code §2761(a)(4))

13 12. Complainant realleges the allegations contained in paragraphs 10 and 11 above, and  
14 incorporates them by reference as if fully set forth.

15 13. Respondent has subjected her registered nurse license to disciplinary action under  
16 Code section 2761(a)(4) in that on or about January 27, 2010, in a disciplinary action before the  
17 Texas Board, the Texas Board entered an Order accepting Respondent's voluntary surrender of  
18 her Texas vocational nurse license and her Texas registered nurse license.

19 14. The underlying conduct supporting the Texas Board's disciplinary action is that on or  
20 about September 17, 2009, the Texas Board filed formal charges against Respondent based upon  
21 her failure to comply with the August 1, 2007, Agreed Order. Specifically, Respondent failed to  
22 complete any of the remedial education courses as required by the Agreed Order. On December  
23 31, 2009, Respondent submitted a notarized statement to the Texas Board requesting to  
24 voluntarily surrender her right to practice vocational and professional nursing in the State of  
25 Texas.  
26  
27  
28

**THIRD CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct – Misrepresentation in Procuring License).**  
**(Bus. & Prof. Code §2761(b))**

15. Complainant realleges the allegations contained in paragraphs 10, 11, 13, and 14 above, and incorporates them by reference as if fully set forth.

16. Respondent has subjected her registered nurse license to disciplinary action under Code section 2761(b) in that she procured her nursing certification from the California Board through misrepresentation. The circumstances are as follows:

17. On or about March 6, 2009, Respondent submitted a Supplemental Information Report (Report) to the California Board in connection with the renewal of her California Registered Nurse License. One of the questions on the Report asked Respondent if she had had any license disciplined by a government agency or other disciplinary body since she last renewed her license. Respondent answered "no" to this question. Before March 6, 2009, Respondent had last renewed her California Registered Nurse License on or about April 17, 2007. As set forth above, Respondent's Texas Registered Nurse and Vocational Nurse Licenses were disciplined by the Texas Board on or about August 1, 2007. Respondent therefore made a misrepresentation to the California Board in procuring her nursing certification in that on the date that she submitted the above Report, two of her licenses had in fact been disciplined by a government agency or disciplinary body since she last renewed her license.

**FOURTH CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct – False Statement or Information in Application)**  
**(Bus. & Prof. Code §2761(e))**

18. Complainant realleges the allegations contained in paragraphs 10, 11, 13, 14, and 17 above, and incorporates them by reference as if fully set forth.

19. Respondent has subjected her registered nurse license to disciplinary action under Code section 2761(e) in that she made or gave false statements and information to the California Board in connection with her application for issuance of her California registered nurse license. The circumstances are set forth above in paragraphs 10, 11, 13, 14, and 17.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 582178, issued to Tina Smith, also known as Tina M. Smith, also known as Tina Marie Smith, also known as Tina Schutte;

2. Ordering Tina Smith, also known as Tina M. Smith, also known as Tina Marie Smith, also known as Tina Schutte to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: October 25, 2010 Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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